

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA

SONY MUSIC ENTERTAINMENT, *et al.*,

Plaintiffs,

v.

COX COMMUNICATIONS, INC., *et al.*,

Defendants.

Case No. 1:18-cv-00950-LO-JFA

DECLARATION OF JEFFREY M. GOULD


I, Jeffrey M. Gould, hereby declare pursuant to 28 U.S.C. § 1746 that the following statements are true and correct to the best of my personal knowledge and belief:

1. I am Senior Counsel at Oppenheim + Zembrak, LLP and counsel for Plaintiffs in the above-captioned case. I submit this declaration, based on personal knowledge or information learned in the course of my involvement in this case, in support of Plaintiffs' Motion to Dismiss Defendants' Counterclaims.

2. On October 11, 2018, I met-and-conferred with Cox's counsel, Jennifer Golinveaux, Michael Elkin and Tom Buchanan, regarding Plaintiffs' anticipated motion to dismiss Cox's counterclaims. Cox's counsel noted that Plaintiffs' claims are limited to February 2013 through November 2014. Cox's counsel further stated the position that Cox's counterclaims are not mirror images of Plaintiffs' claims because they seek broader declarations that Cox did not infringe Plaintiffs' works-in-suit at any time.

3. Plaintiffs intentionally and carefully pled their claims within the period for which this Court already concluded, in *BMG Rights Mgmt. (US) LLC, et al., v. Cox Commc'ns, Inc., et al.*, Civ. No. 1:14-cv-01611-LO-JFA (E.D. Va. filed Nov. 26, 2014) ("*BMG v. Cox*"), that Cox is ineligible for the DMCA safe harbor. Plaintiffs take no position on the propriety of Cox's actions after November 2014; but Plaintiffs are also not trying to leave open the possibility of a second lawsuit for a later period. I have discussed this matter with Plaintiffs, and Plaintiffs expressly represent that, in this litigation or otherwise, they will not pursue claims against Cox for copyright infringement of Plaintiffs' works, arising from activities that took place through Cox's network between November 27, 2014 and the filing of their Complaint.

I declare under penalty of perjury that the foregoing is true and correct.



Jeffrey M. Gould

Executed on October 15, 2018 in Washington, D.C.